REMARKS

This Amendment is filed in response to the non-final Office Action of May 10, 2011 in which claims 92-125 were rejected.

I. Amendments

Independent **claims 92, 102, 113 and 124** have been amended to require that the established communication channel enables a transfer of data relating to an application that has already been a foreground application when close vicinity between two mobile devices is detected. The original disclosure can be found in par. [0045]+[0043] or [0133]+[0131] or original claims 14-16 of Applicants' published US patent application (US 2005/0198029). The previously added features of monitoring and updating a communication channel has been removed again. Claim 92 has further been aligned with claim 102.

Claims 96, 97, 105, 106, 117 and 118 have been adapted to the amended independent claims.

Claims 97, 106, 118 have further been amended to require an automatic invoking of a function. The original disclosure can be found in par. [0048] of Applicants' published US patent application.

Claims 98, 107, 119 have been amended to require an automatic context dependent interaction. The original disclosure can be found in par. [0134] of Applicants' published US patent application.

Claims 101, 112, 123, 125 have been adapted to the amended independent claims, in particular by making them dependent on newly added dependent claims:

Claims 126, 134, 142 and 145 have been added; they comprise the features that have been removed from the independent claims.

Claims 127, 128, 135, 136, 143, 144, 146 and 147 have been added. The original disclosure for the requirement that detecting that the mobile device is at least in close vicinity to the other mobile device makes use of a direct link of a first type between the mobile device and the other mobile device, e.g. an RFID based link, can be found in par. [0022] of Applicants' published US patent application. The original disclosure for the requirement that the established communication

channel uses a direct link of a second type, e.g. a Bluetooth based link, can be found in par. [0039] of Applicants' published US patent application.

Claims 129, 137 and 148 have been added. The original disclosure for an automatic transfer can be found in par. [0173] of Applicants' published US patent application.

Claim 130, 138 and 149 have been added. The original disclosure for invoking an application in the other device by a transfer of data can be found in par. [0136] of Applicants' published US patent application.

Claims 131, 139 and 150 have been added. The original disclosure for the foreground application being a game and for invoking the same game in the other device can be found in par. [0136] of Applicants' published US patent application.

Claims 132, 140 and 151 have been added. The original disclosure for a multiplayer game can be found in par. [0136] of published US patent application.

Claims 133, 141 and 152 have been added. The original disclosure for causing a download of an application in the other device by means of a transfer of data can be found in par. [0136] of Applicants' published US patent application.

II. Novelty and non-obviousness

The Office rejected the independent **claims 92, 102, 113 and 124** in view of *Libes* (US 2003/0162556) and *Gubbi* (US 2003/0231621).

Amended independent claim 92 defines a method, which comprises

- *detecting, by an apparatus, that a mobile device is at least in close vicinity to another mobile device, <u>while a particular application of the mobile device is a foreground application that is currently selected to receive user input</u>; and*
- *causing, by the apparatus, the establishment of a communication channel between the mobile device and the other mobile device in response to the detection that the mobile device is at least in close vicinity to another mobile device <u>for enabling a transfer of data relating to the foreground application</u>.*

There is no indication in *Libes* that an application, for which a data transfer is enabled, is an application that is already an active <u>foreground application</u>, <u>when</u>

close vicinity between devices is detected. Rather, a person skilled in the art considering *Libes* will assume that at first, the wireless connection is established after handshaking (possibly after confirmation by a user) and that only then an application is invoked so that it becomes a foreground application, for which the connection is actually to be used. Also *Gubbi* does not provide any suggestion in this direction.

Thus, claim 92 is neither anticipated nor rendered obvious by the cited references.

The same applies to the **other independent claims**, which comprise corresponding features, and consequently to the **dependent claims** as well. In addition, the dependent claims comprise various inventive features of their own, as will be shown by way of example for some of the claims:

Claims 97, 106, 118 require an automatic invoking of a function; **claims 98, 107, 119** require an automatic context dependent interaction, and **claims 129, 137 and 148** require an automatic transfer of data. *Libes* only mentions that a printer may automatically print (par. 0045). But this only relates to an automatic reaction to transferred data by an active application. There is no disclosure or suggestion that a function of the foreground application could be invoked automatically, that there could be an automatic context dependent interaction, or that data could be transferred automatically. Rather, a person skilled in the art will assume that in the approach of *Libes*, the function that is to use the established communication channel is selected and thus invoked based on a user input once the communication channel has been established; that in the approach of *Libes*, the established communication channel is used based on a user input; and that in the approach of *Libes*, data is only transferred upon a user input/confirmation. *Gubbi* is not suited to provide a hint at such automatism either. It only mentions an automatic search for a transmission channel and an automatic deletion of subclients.

Claims 101, 112, 123 and 125 require that an established communication channel uses a direct link between the mobile device and the other mobile device, and wherein updating the communication channel comprises replacing the direct link by an indirect link. The update is performed more specifically, in case conditions are detected to be worse than predetermined conditions. This is not

disclosed by *Libes* and *Gubbi*. *Libes* may use a direct link for detecting close vicinity, but the communication channel that is established upon detecting vicinity is a network connection (*Libes*: par. [0032]) and thus an indirect link between the involved devices. There is no change from a direct link to an indirect link depending on conditions on a monitored communication channel. Also *Gubbi* is not suited to provide a hint at such a change, because here, there is either only a direct link between two particular mobile devices (client 16 and subclient 20) or only an indirect link between two particular mobile devices via a network (clients 16) (*Gubbi*: par. [0040]); there is no change of an established connection between two mobile devices from a direct link to an indirect link. The updates presented in *Gubbi* relate to network links only.

Claims 127, 128, 135, 136, 143, 144, 146 and 147 require that two different types of direct links are used for detecting vicinity on the one hand (e.g. RFID) and establishing a communication channel on the other hand (e.g. Bluetooth). This is not disclosed by *Libes*. *Libes* optionally uses a direct link for handshaking (and possibly some minor exchange of data) and an indirect link for further communication. In *Libes*, the direct link may be of different types, but for a particular embodiment, only one type of direct link is employed. Also in *Gubbi*, the direct link may be of different types, but for a particular connection, only one type of direct link is employed. That is, in both references there is no disclosure of a linked sequential use of two different types of direct links between two devices.

Claim 130, 138 and 149 require invoking an application in the other device by means of the transfer of data. According to *Libes*, (an application in) the other device may be notified, but there is no disclosure that an application in the other device could be invoked. Also in *Gubbi*, there is no disclosure or suggestion of such an approach.

Claims 131, 139 and 150 require that the foreground application is a game and that the same game is invoked in the other device by transferred data. In *Libes* and *Gubbi*, there is no disclosure of or suggestion at such an approach.

Claims 132, 140 and 151 require the foreground application to be a multiplayer game. In *Libes* and *Gubbi*, there is no disclosure of or suggestion at such an approach.

Claims 133, 141 and 152 require a transfer of data causing a download of an application in the other device. In *Libes* and *Gubbi*, there is no disclosure of or suggestion at such an approach.

The objections and rejections of the Office Action of May 10, 2011, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 92-152 to issue, is earnestly solicited.

Respectfully submitted,

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